

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MARTIN LYNCH D/B/A MARTIN LYNCH
WATER COMPANY

ALLEGED FAILURE TO COMPLY WITH KRS
278.140 AND KRS 278.230(3)

)
)
)
) CASE NO. 94-374
)
)
)

O R D E R

On October 11, 1994, the Commission ordered Martin Lynch, doing business as Martin Lynch Water Company ("Lynch"), to show cause why he should not be penalized for his alleged failure to comply with KRS 278.140 and 278.230(3). A hearing in this matter was held on November 7, 1994. Neither Lynch nor his representative appeared.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Martin Lynch owns, controls, operates, and manages facilities in the Commonwealth of Kentucky which are used for and in connection with the distribution and furnishing of water to and for the public for compensation. He is therefore a utility subject to Commission jurisdiction. KRS 278.010(3)(d).

2. KRS 278.140 requires every utility, on or before March 31 of each year, to file with the Commission a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

3. KRS 278.230(3) directs every utility to file with the Commission any report or other information that the Commission reasonably requires.

4. Commission Regulation 807 KAR 5:006, Section 3(1), requires every utility to file with the Commission on or before March 31 of each year a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission.

5. On or about January 2, 1993, the Commission mailed to Lynch two copies of its standard forms for report of gross earnings derived from intrastate business and for the annual financial and statistical report with a letter of instruction to complete the forms for his 1993 calendar year operations.

6. Lynch did not file these reports for his 1993 calendar year operations nor did he request an extension of time in which to make such filing.

7. On April 11, 1994, the Commission mailed a letter to Lynch which advised him that the required reports were past due.

8. Commission Staff subsequently contacted Lynch by telephone and advised him that the required reports were past due.

9. As of the date of this Order, Lynch has not filed a report of gross earnings derived from intrastate business nor an annual financial and statistical report for his 1993 calendar year operations.

10. On October 13, 1994, Lynch was served with a copy of the Commission's Order of October 11, 1994 by certified mail.

11. Where the act which a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance. See Re Dyke Water Company, 55 PUR3d 342 (Cal. P.U.C. 1964).

12. Lynch has willfully failed to submit reports required by KRS 278.140.

13. Lynch has willfully failed to submit reports required by Commission Regulation 807 KAR 5:006, Section 3(1).

14. Lynch has willfully failed to comply with KRS 278.230(3).

15. Lynch should be assessed a penalty of \$250 for his willful failure to comply with KRS 278.140 and KRS 2278.230(3).

IT IS THEREFORE ORDERED that:

1. Lynch is assessed a penalty of \$250 for his willful violation of KRS 278.140 and 278.230(3).

2. Lynch shall pay the assessed penalty within 20 days of the date of this Order. Payment shall be made by certified check or money order made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

3. Within 20 days of the date of this Order, Lynch shall file with the Commission a completed report of his gross earnings

derived from intrastate business for 1993 and a completed annual report for his 1993 calendar year operations.

Done at Frankfort, Kentucky, this 9th day of February, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director